

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

EXEL DRYER, INC.,)	
Plaintiff)	
)	
v.)	C.A. NO. 12-CV-30211-MAP
)	
DYSON, INC.,)	
Defendant)	

ORDER RE: PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTION
(Dkt. No. 2)

February 19, 2013

PONSOR, U.S.D.J.

Counsel appeared on February 13, 2013 for argument on the motion of Plaintiff Excel Dryer, Inc. for a preliminary injunction. For the reasons set forth by the court in detail orally following argument, the Motion for Preliminary Injunction (Dkt. No. 2) was DENIED from the bench. Although Plaintiff made a colorable showing, the evidence of record was insufficient to support the conclusion that Plaintiff enjoys a likelihood of success on the merits at this time. The evidence was, at best, in equipoise on this point.

This ruling is conditioned upon the submission to the court no later than February 20, 2013 from counsel for Defendant confirming that Defendant will not, in any medium, state or imply that Plaintiff's hand dryer requires forty-

three seconds to complete the drying process. To the extent that the letter from Defendant's counsel does not, in Plaintiff's counsel's view, offer Plaintiff sufficient protection on this point, Plaintiff may submit a proposed injunctive order.

The court has this day issued a Pretrial Scheduling Order to govern the preliminary phase of this case over the next eight months, leading to a status conference to take place on December 4, 2013 at 2:00 p.m.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
United States District Judge